HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:11795 OF 2007

Dated: 08.06.2007

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Between:

The Government of A.P., rep., by its
Principal secretary, Employment & Training, Secretariat,
Hyderabad and others.

..**Petitioners**

And

S. Ranganayakulu ..**Respondent**

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:11795 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition has been filed questioning the order, dated 21.11.2006 in O.A.No.578 of 2006, passed by the A.P. Administrative Tribunal, Hyderabad.

The respondent herein is the applicant before the Tribunal.

It is the case of the applicant that he was initially appointed as Typist on 4.12.1978 and he was promoted as Senior Assistant on 22.6.1987. While so, during the period from 27.7.1997 to 20.11.1998, on certain financial irregularities committed by the Principal of Industrial Training Institute, Shadnagar, the applicant was implicated. On the charge memo served on him, he submitted his statement of defence, but, the respondents have not proceeded with the departmental enquiry so far. The case was also referred to ACB, in which the applicant and three others viz., Iftekhar Mohd. Khan, Saleem and Bakkaiah are shown as accused. It is the case of the applicant that though Iftekhar Mohd. Khan is an accused he got three promotions, whereas the case of the applicant was denied for promotion.

The Tribunal having observed that even after lapse of more than seven years from the date of issuance of charge memo, the respondents-authorities have not completed the enquiry and therefore, the applicant cannot be denied promotion on that ground, allowed the O.A. directing the respondents to promote the applicant to the post of Superintendent, on par with his juniors.

Having aggrieved by the same, the respondents in O.A. filed the present writ petition.

Heard the learned Government Pleader for Services I and the learned Counsel for the respondent-applicant.

It is contended by the learned Government Pleader that the respondent-applicant was involved in misappropriation, embezzlement

and misuse of public money during his tenure as Senior Assistant at I.T.I., Shadnagar and the case was referred to ACB. It is also contended that G.O.Ms.No.257, dated 10.6.1999 with regard to the appointment by promotion/transfer of employees who are facing disciplinary cases, makes it clear that the appointing authority should consider and decide that it would not be against public interest to allow adhoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry and therefore, the respondent-applicant is not eligible for promotion whereas it is the case of the respondent-applicant that the petitioners-authorities have not completed the disciplinary proceedings so far and after expiry of six months from the date of issuance of the charge memo, the applicant is entitled to be promoted along with others and therefore, the tribunal is justified in directing the authorities to consider his case for promotion.

On a perusal of the record, it is apparent that the disciplinary proceedings are pending against the respondent-applicant. But however, delay in completing the enquiry proceedings, cannot be detrimental to the rights of the applicant. In this view of the matter and in view of the pendency of disciplinary proceedings, without expressing any opinion on the merits of the case, We feel it appropriate to direct the petitioners to consider the case of the respondent-applicant for the present for promotion to the post of Superintendent on par with his juniors who were already promoted. However, it is made clear that this will not preclude the petitioners-authorities to proceed with the enquiry and pass orders in accordance with law. It is further made clear that consideration of the case of the petitioner for the present, shall be without prejudicial to the disciplinary proceedings pending against him.

Subject to the above modification, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 8th June, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:11795 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

08/06/2007

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CIVIL REVISION PETITION No:744 OF 2005

28.1.2006